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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,808	03/22/2004	Jeffrey R. Chalfant	36289US1	1072
116 7590 07/06/2007 PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			EXAMINER A, PHI DIEU TRAN	
			ART UNIT 3637	PAPER NUMBER
			MAIL DATE 07/06/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/805,808

Applicant(s)

CHALFANT, JEFFREY R.

Examiner

Phi D. A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/6/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7, 11-17, 19-23, 25, 28, 29, 31, 32, 35, 36 and 39-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 7, 11-17, 19-23, 25, 29, 31, 35 and 39-43 is/are rejected.
- 7) ☒ Claim(s) 4, 20, 28, 32 and 36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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1. The indicated allowability of claims 3, 15, 21, 31, 34-35 is withdrawn in view of the newly discovered reference(s) to Frommelt et al, Ashelin, and Thill. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 22-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Ashelin et al (6272799).

Ashelin et al shows a loading dock door seal system comprising a loading dock doorway and a first dock pad and a plurality of mounting brackets, the doorway having a mounting surface, the dock pad being mounted adjacent the mounting surface with at least said mounting brackets, the dock pad comprising a rigid backing structure (30), a foam layer (28) extending from the backing structure, each of the having one long leg (30) and two short legs (62, 60), the two short legs (62, 60) having substantially different lengths, each of the lengths being measured in a direction substantially perpendicular to the mounting surface, the longer of the two short legs having a length effective to provide clearance for a rib structure on a building surface (inherently capable of functioning as claimed).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 5, 7, 14, 17, 19, 21, 29, 31, 39-41, 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frommelt et al (3230675) in view of Thill et al (6854224).

Frommelt et al shows a loading dock door seal system comprising a loading dock doorway and a first dock pad (figure 4), the doorway having a mounting surface, the dock pad being mounted adjacent the mounting surface, the dock pad comprising a rigid backing structure (9), a second foam layer (10), the backing structure having a front portion and an opposing rear portion, the second foam layer extending from the front portion of the backing structure to provide a seal between the dock pad and a vehicle, the first dock pad comprising a theft deterrence component (14) which covers a substantial portion of the second foam layer, the theft deterrence component is a metal structure, the system including a cover (12) that substantially covers exposed portions of the first dock pad, at least one of the first and second foam layers comprising flexible foam (the second layer 10), the second foam layer having an exterior periphery partially covered by the backing structure and partially not covered by the backing structure, the dock pad further comprising a theft deterrence component (14) which covers a substantial portion of the exterior periphery which is not covered by the backing structure, said dock pad includes a plurality of pleats (14) to mitigate abrasion on the dock pad, the system

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further comprising a second and third dock pad, the first dock pad being mounted on a first side of the doorway, the second dock pad being mounted on a second side of the doorway, the third dock pad being mounted above the doorway, the deterrence component is at least partially made of metal, the seal between the mounting surface and the dock pad is substantially airtight, the theft deterrence component is such that the theft deterrence component can be compressed along with the foam layer when the foam layer is compressed in use, the theft deterrence component is secured to a first end portion of the backing structure, wrapped around the foam layer, and secured to a second end portion of the backing structure, such that the foam layer is substantially enclosed by the theft deterrence component.

Frommelt et al does not show a first foam layer extending from the rear portion of the backing structure, a mounting bracket attaching the dock pad to the mounting surface.

Thill et al shows a first foam layer (62) extending from the rear portion of the backing structure, a mounting bracket (50) attaching the dock pad to the mounting surface, the thickness of the first foam layer being thinner than the second foam layer.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Frommelt et al's structure to show a first foam layer extending from the rear portion of the backing structure, a mounting bracket attaching the dock pad to the mounting surface because having a first foam layer attaching the dock pad to a mounting bracket to be attached to a mounting surface would allow for easy and secure mounting of the dock pad to the mounting surface.

Frommelt et al as modified further shows the thickness of the first foam layer being thinner than the second foam layer.

Per claim 39, Frommelt et al as modified shows all the claimed limitations except for the first foam layer being about 0.5-1 inches thick.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Frommelt et al's modified structure to show the first foam layer being about .5-1 inch thick because having the layer being .5-1 inch thick would provide good cushion ability to the layer.

4. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frommelt et al (3230675) in view of Thill et al (6854224).

Frommelt et al as modified shows all the claimed limitations except for the first and second foam layers having resilience from about +180F to about -50 F.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Frommelt et al's modified structure to show the first and second foam layers having a resilience from about +180F to about -50 F because it would have been an obvious matter of engineering design choice to choose the foam layers having the first and second foam layers having a resilience from about +180F to about -50 F as having the foam temperature range would enable a pad to properly function in the outside environment which can be very hot and very cold, and a designer having ordinary skill in the art would know to choose the foam having the temperature range as it ensures that the pad would be able to function properly outdoor; furthermore, applicant on pages 7-8 of the specification, discloses that any suitable density foam can be utilized and it reinforces the position that the claimed temperature range is a matter of engineering design choice.

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5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frommelt et al (3230675) in view of Thill et al (6854224) as applied to claim 1 above and further in view of Etlar (2704574).

Frommelt et al as modified shows all the claimed limitations except for at least one of the foam layers being constructed of three-stage foam.

Etlar shows a door seal pad made of multiple stages of foam material to provide for good strength and compression ratio.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Frommelt et al's modified structure to show at least one of the foam layers being constructed of three-stage foam because it would provide the pad with good strength and compression ratio as taught by Etlar.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frommelt et al (3230675) in view of Thill et al (6854224) as applied to claim 1 and further in view of Frommelt (4718207).

Frommelt et al as modified shows all the claimed limitations except for the backing structure (9) being made of steel.

Frommelt ('207) discloses a backing member (10) made of steel, wood, or other suitable material.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Frommelt et al's modified structure to show the backing structure (9) being made of steel as taught by Frommelt ('207) because steel, and wood are well known commonly used material for forming a backing member for a dock pad.

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7. Claims 1, 15-16, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ashelin et al (6272799) in view of Thill et al (6854224).

Ashelin (figure 6) shows a loading dock door seal system comprising a loading dock doorway and a first dock pad (28), the doorway having a mounting surface, the dock pad being mounted adjacent the mounting surface, a mounting bracket (50), the dock pad comprising a rigid backing structure (30), a second foam layer (28), the backing structure having a front portion and an opposing rear portion, the second foam layer extending from the front portion of the backing structure to provide a seal between the dock pad and a vehicle, the mounting bracket having one long leg ((50), and two short legs (62, 60), the two short legs having substantially different length, each of the length being measured in a direction substantially perpendicular to the mounting surface, the longer of the two legs having a length effective to provide clearance for a rib structure on a building surface.

Ashelin does not show a first foam layer extending from the back of the backing layer.

Thill et al shows a first foam layer extending from the back of the backing layer to cushion the backing layer against the bracket.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Ashelin's structure to show a first foam layer extending from the back of the backing layer because it would cushion the backing layer against the bracket when they are mounted together as taught by Thill et al.

Per claim 16, Ashelin as modified shows all the claimed limitation sexcept for the bracket is adjustable via a slotted aperture.

Thill et al further shows slots (54) to allow for the easy adjustment of the mounting of the bracket to the pad.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Ashelin's modified structure to show the bracket is adjustable via a slotted aperture because it allow for the easy adjustment of the bracket to the pad when they are connected to each otherw2 as taught by Thill et al.

8. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ashelin et al (6272799) in view of Thill et al (6854224).

Ashelin as modified shows all the claimed limitations except for the brackets having a slot formed therein.

Thill et al shows a bracket having slot therein.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Ashelin et al's structure to show the brackets having a slot formed therein as taught by Thill et al because slots would allow for the easy of positioning and mounting of the bracket onto the wall to compensate for minor variations.

9. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ashelin et al (6272799).

Ashelin shows all the claimed limitations except for the lengths of the two short legs differ by at least about 1 inch.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Ashelin et al's structure to show the lengths of the two short legs differ by at least about 1 inch because it would have been an obvious matter of engineering design choice to

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have the legs differing at different dimension to satisfy a particular engineering design, and having the difference being at least 1 inch would allow for the legs to secure at locations further from each other to provide for a firm grip on the pad.

Allowable Subject Matter

2. Claims 4, 20, 28, 32, 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

10. Applicant's arguments with respect to claims 1-5,7,11-17,19-23,25,28,29,31,32,35,36 and 39-43 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

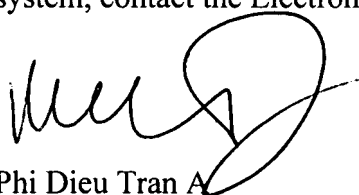
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different dock pad device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Phi Dieu Tran A', with a large, stylized loop at the end.

Phi Dieu Tran A

5/29/07